

The Montgomery County CCOC

Thank you for allowing me to comment on the CCOC before the council. I am a 50-year resident of Montgomery County. I grew up here and moved to Gaithersburg in the mid 1980's and purchased my first home in 1988 in Gaithersburg. In 2006 I purchased a condominium in the Colonnade at Kentlands and would have loved for us to be a part of the CCOC as we had a developer who was keeping books and records in Florida and not allowing unit owners access to them, not having open meetings, not conducting required yearly independent Audits and other things as required by the Maryland Condominium Act. When I contacted the CCOC and was told that our community was not eligible to be a part of the CCOC because we were inside the City of Gaithersburg, I was disappointed and ended up filing my complaint with the State of Maryland Attorney General's Office.

Fast Forward 16 years and Gaithersburg has joined the CCOC as of July 1 of this year. The Colonnade is no longer under developer control, and I am on the governing board. It is regrettable after my high hopes for the CCOC that I now am compelled to say that I have never been so disappointed in a government commission. We have 2 owners with personal contacts with one of the Mediators for the CCOC (Mark Fine) and we believe their attorney (Matthew Skipper) is also a close personal contact of his.

This all plays into the disappointment I am currently experiencing. I would expect the commission to be neutral and to disengage from actions that violate the CCOC's charter, I am going to list where they have not followed their charter just in my recent CCOC interactions as a volunteer community leader.

1. The CCOC staff appears to back date letters and then email them late in an attempt to ensure they meet the dates in their charter, if they say they will give ample notice and they are late they are likely to backdate an email or mail
 - a. In one of the pending cases we have before the CCOC the notice of complaint letter was dated September 29, but the postmark date on the notice letter was October 5th and the notice was not received until October 7th. In the other case the date on the CCOC notice letter was August 11, 2022, but the postmark date was August 26th, which is two weeks from the notice date and very misleading and prejudicial to the Association's efforts to defend the claim.
 - b. When they state that they will give a minimum of 10 days' notice for all mediation then they tell us on the Tuesday before Thanksgiving that they will mediate on the Monday after Thanksgiving that is not even 10 days' notice never mind it is over a holiday weekend.
2. Gaithersburg Joined the CCOC on July 1st and they accepted the documentation for 2 owners who were assessed by our board prior to July 1st.
 - a. The incidents which involved hearings and official notices all happened several months prior to the Colonnade joining the CCOC.
 - b. The CCOC charter states that they do not deal with claims for delinquent assessments, yet one of the current complaints we are defending was filed to stay a lien action in the Circuit Court assessments
 - c. They ask if all avenues have been taken to resolve issues, yet these owners never appealed their fines to the Board of Directors or in the Circuit Court.
 - d. Has the CCOC even reviewed our documents? These assessments are in line with our CCA documents.

3. When the board questions the jurisdiction of the CCOC based on the issues occurring prior to July 1st they state that they will determine jurisdiction after they perform mediation of the issues?
 - a. Is this not backwards?
 - b. Shouldn't jurisdiction be determined first? Surely, with the new communities that are joining the CCOC the CCOC does not have the capacity to mediate each and every dispute even if there is later no CCOC jurisdiction. This would appear to be a waste of valuable County staff resources.
4. Mark Fine / the CCOC is having discussions with the owners and their counsel, or it seems that they are as any dates that are given to us, and our counsel are always fine with Matthew Skipper (owners counsel), but we are caught unaware. How is it that all the dates are fine with them?
 - a. There seems to be ex-parte communication on this, what else are they discussing? Putting the board and our management company at a disadvantage.
 - b. How can Mark Fine be a mediator when he owns a Proper Management company? He cannot be unbiased, is he looking for business for his company?
5. We have 2 cases before them from 2 different condos with 2 different owners, yet they are demanding that we mediate them together? How if they are not for the same things? From the same buildings? Each entity has a separate governing body who would have to approve of the mediation so how can they be mediated together?
6. Prior to receiving notification from the CCOC of one of the filings we filed a legal claim against one of the owners. The CCOC still claims it has jurisdiction even if the facts of the litigation all occurred prior to July 1, 2022, which would mean that the courts have jurisdiction.
7. In the course of dealing with these CCOC claims, a unit owner who is not a complainant advised our Board that she contacted the CCOC and the staff advised her that our community should not need legal counsel to defend itself before the CCOC; yet, the CCOC's own procedures manual encourages the involvement of legal counsel. The messaging between the staff and owners is inconsistent with written manuals published by the CCOC the DCRA.

I believe that the commission can be useful if proper oversight is provided to them, and the personnel is held accountable for abiding by the established charter. In their current form they are not providing that. The metrics we should be watching are how many of their cases are being appealed? Are the cases reviewed after the fact to see if the mediators are biased and engaging in ex-parte communications that are prohibited by their charter, back dating notices and are the staff provided the proper training on their own CCOC charter and procedures manual?

As a taxpayer I believe this could be a useful commission but not in its current form. There needs to be oversight and auditing done. When was the last audit? Are their surveys after the fact? All email systems keep logs have they been checked for back dates? Is this body aware of the number of pending petitions for review challenging CCOC orders that are currently before the Montgomery County Circuit Court?

Thank you for your time and attention to these important matters. If you need volunteers for auditing, I will volunteer my time.

Happy Holidays,

Michele Rubinstein